

REMARKS

This Response is submitted in reply to the Final Office Action dated November 5, 2009. Claims 1, 3 to 4, 6 to 12 and 14 have been amended for clarity. Claims 2, 5, 13 and 33 to 34 have been canceled without prejudice or disclaimer. Claims 17 to 18 were previously canceled. Claims 15 to 16 and 19 to 32 stand withdrawn. No new matter has been added by these amendments.

A Request for Continued Examination and a Supplemental Information Disclosure Statement are submitted herewith. Please charge deposit account number 02-1818 for any fees which are due in connection with this Request for Continued Examination, this Supplemental Information Disclosure Statement and this Response.

As noted above, Applicant has filed a Request for Continued Examination with this Response. Accordingly, Applicant requests that the Examiner allow the application or provide an Office Action which identifies "any claims which he or she judges, as presently recited, to be allowable and/or . . . suggest any way in which he or she considers that rejected claims may be amended to make them allowable" in accordance with §707.07(d) of the MPEP.

The Office Action rejected Claims 1 to 14, 33 and 34 under 35 U.S.C. §112, second paragraph. Specifically, the Office Action stated that Claim 1 recites "wherein at least one attribute of the bonus game is different than the at least one attribute otherwise would be if entry to the same bonus game was not provided based on the first time matching the second time." The Office Action further states that "if there are any different attributes in a game, then they are different games, not the same games." Applicant has amended independent Claim 1 for clarity and submits that these rejections have been overcome. Accordingly, Claims 1, 3 to 4, 6 to 12 and 14 comply with 35 U.S.C. §112, second paragraph.

The Office Action rejected Claims 1, 2, 5 to 8, 10, 13, 33 and 34 under 35 U.S.C. §102(b) as being unpatentable over U.S. Patent No. 5,655,961 to Acres et al ("Acres"). Applicant respectfully disagrees with this rejection for at least the following reasons.

The Abstract of Acres discloses:

[a] system for monitoring and configuring gaming devices interconnected over a high-speed network is disclosed. The system can support a file server, one or more floor controllers, one or more pit terminals, and other terminals all interconnected over the network. Each gaming device includes an electronic module which allows the gaming device to communicate with a floor controller over a current loop network. The electronic module includes a player tracking module and a data communication node. The player tracking module includes a card reader for detecting a player tracking card inserted therein which identifies the player. The data communication node communicates with both the floor controller and the gaming device. The data communication node communicates with the gaming device over a serial interface through which the data communication node transmits reconfiguration commands. The gaming device reconfigures its payout schedule responsive to the reconfiguration commands to provide a variety of promotional bonuses such as multiple jackpot bonuses, mystery jackpot bonuses, progressive jackpot bonuses, or player specific bonuses.

Amended independent Claim 1 is directed to a method of operating a gaming system, the method including, amongst other elements, at a first point in time, causing at least one processor of a wagering game device to execute a plurality of instructions to: (i) determine a current time, and (ii) determine a reference time, wherein, at the first point in time, the determined reference time is different than the determined current time. The method of operating a gaming system of amended independent Claim 1 also includes, at a second, different point in time, causing the at least one processor to execute the plurality of instructions to: (i) determine that the second point in time has a predetermined relationship to the determined reference time, and (ii) cause at least one display device to display a first play of a bonus game, the first play of the bonus game having a first average expected payout which is based, at least in part, on the second point in time having the predetermined relationship to the determined reference time, and at a third, different point in time, causing the at least one processor to execute the plurality of instructions to: (i) determine a triggering event has occurred, the triggering event occurring independent of the third point in time, and (ii) cause the at least one display device to display a second, different play of the bonus game, the second, different play of the bonus game having a second, different average expected payout.

Applicant submits that the Office Action appears to interpret the bonus time jackpot of Acres as the bonus game of Claim 1 and the entry into the bonus time jackpot of Acres as the first time matching the second time of Claim 1. Specifically, in the Response to Arguments section of the January 23, 2009 Office Action, the Examiner stated that:

[a]pplicant argues that Acres does not teach "providing, based on the first time matching the second time, entry into a bonus game of a gaming device wherein at least one attribute of the bonus game is different than the at least one attribute otherwise would be if entry to the bonus game was not provided based on the first time matching the second time". However, Examiner disagrees. Entry into the Bonus Time Jackpot game is conditional upon the first time (i.e., the current time of day) matching a second time (i.e., the preset bonus time). While other factors may also influence entry into the Bonus Time Jackpot game, Applicant's claims do not preclude these factors. (emphasis added)

Additionally, page 3 of the January 23, 2009 Office Action, stated that Acres anticipates:

[d]etermining a first time; determining a second time; and providing, based on the first time matching the second time, entry into a bonus game of a gaming device [column 25, line 38 – column 26, line 24]. (emphasis added)

Similarly, page 3 of the present Office Action stated that Acres anticipates:

[d]etermining, via a processor of a device operable to facilitate a wagering game [column 25, lines 4-37] a first time; determining, via the processor, a second time; and causing, via the processor, a gaming device to enter a bonus game, based on the first time matching the second time, [column 25, line 38 – column 26, line 24]. (emphasis added)

Applicant submits that it appears that the present Office Action maintains the interpretation from the January 23, 2009 Office Action that entry into the bonus time jackpot game is conditional upon the first time (i.e., the current time of day) matching a second time (i.e., the preset bonus time). Based on this interpretation, Applicant has amended certain of the claims to clarify that at a first point in time, a current time and a different, reference time are determined and at a second, different point in time, when the second point in time is determined to have a predetermined relationship to the determined reference time, a first play of a bonus game is displayed.

Applicant respectfully submits that unlike the method of operating a gaming system of amended independent Claim 1, Acres does not anticipate at a first point in time, causing at least one processor of a wagering game device to execute a plurality of instructions to, determine a current time, and determine a reference time, wherein, at the first point in time, the determined reference time is different than the determined current time, and at a second, different point in time, causing the at least one processor to execute the plurality of instructions to: determine that the second point in time has a predetermined relationship to the determined reference time, and cause at least one display device to display a first play of a bonus game, the first play of the bonus game having a first average expected payout which is based, at least in part, on the second point in time having the predetermined relationship to the determined reference time.

Additionally, Applicant submits that Acres does not anticipate at a second, different point in time, causing the at least one processor to execute the plurality of instructions to: (i) determine that the second point in time has a predetermined relationship to the determined reference time, and (ii) cause at least one display device to display a first play of a bonus game, the first play of the bonus game having a first average expected payout which is based, at least in part, on the second point in time having the predetermined relationship to the determined reference time, and at a third, different point in time, causing the at least one processor to execute the plurality of instructions to: (i) determine a triggering event has occurred, the triggering event occurring independent of the third point in time, and (ii) cause the at least one display device to display a second, different play of the bonus game, the second, different play of the bonus game having a second, different average expected payout.

On the other hand, the method of operating a gaming system of amended independent Claim 1 includes, amongst other elements, at a first point in time, causing at least one processor of a wagering game device to execute a plurality of instructions to, determine a current time, and determine a reference time, wherein, at the first point in time, the determined reference time is different than the determined current time, at a second, different point in time, causing the at least one processor to execute the plurality of instructions to: (i) determine that the second point in time has a predetermined relationship to the determined reference time, and (ii) cause at least one

display device to display a first play of a bonus game, the first play of the bonus game having a first average expected payout which is based, at least in part, on the second point in time having the predetermined relationship to the determined reference time, and at a third, different point in time, causing the at least one processor to execute the plurality of instructions to: (i) determine a triggering event has occurred, the triggering event occurring independent of the third point in time, and (ii) cause the at least one display device to display a second, different play of the bonus game, the second, different play of the bonus game having a second, different average expected payout.

For at least these reasons, Applicant respectfully submits that amended independent Claim 1 is patentably distinguished over Acres and is in condition for allowance.

Claims 6 to 8, 10 and 13 depend directly from independent Claim 1 and are also allowable for the reasons given with respect to independent Claim 1 and because of the additional features recited in these claims.

The Office Action rejected Claims 3, 4, 8, 9, 11, 12 and 14 under 35 U.S.C. §103(a) as being unpatentable over Acres. Applicant respectfully disagrees with this rejection for at least the following reasons.

Regarding Claims 3, 4, 8 and 9, page 6 of the Office Action stated that:

[s]etting the schedule to a beginning of a next hour and minutes before a beginning of a next hour are obvious variants and considered design choice to one of ordinary skill in the art.

Applicant respectfully submits that regardless of whether or not setting the schedule to a beginning of a next hour and minutes before a beginning of a next hour are obvious variants, as discussed above with respect to amended independent Claim 1, Acres does not anticipate at a first point in time, determining a current time and a reference time, wherein, at the first point in time, the determined reference time is different than the determined current time, and at a second, different point in time, determining that the second point in time has a predetermined relationship to the determined reference time, and causing at least one display device to display a first play of a bonus game, the first play of the bonus game having a first average expected

payout, and at a third different point in time causing the at least one display device to display a second, different play of the bonus game, the second, different play of the bonus game having a second, different average expected payout. Moreover, it would not have been obvious to one of ordinary skill in the art to modify the method of operating a gaming system of Acres to result in such a method without reasonably being construed as improper hindsight reconstruction.

On the other hand, the method of operating a gaming system of Claims 3, 4, 8 and 9 each include, amongst other elements, at a first point in time, causing at least one processor of a wagering game device to execute a plurality of instructions to, determine a current time, and determine a reference time, wherein, at the first point in time, the determined reference time is different than the determined current time, at a second, different point in time, causing the at least one processor to execute the plurality of instructions to: (i) determine that the second point in time has a predetermined relationship to the determined reference time, and (ii) cause at least one display device to display a first play of a bonus game, the first play of the bonus game having a first average expected payout which is based, at least in part, on the second point in time having the predetermined relationship to the determined reference time, and at a third, different point in time, causing the at least one processor to execute the plurality of instructions to: (i) determine a triggering event has occurred, the triggering event occurring independent of the third point in time, and (ii) cause the at least one display device to display a second, different play of the bonus game, the second, different play of the bonus game having a second, different average expected payout.

For at least these reasons, Applicant submits that Claims 3, 4, 8 and 9 are each patentably distinguished over Acres and are in condition for allowance.

Regarding Claims 11, 12 and 14, page 7 of the Office Action stated that:

[t]axes paid to a gaming device, an average rate of play and paying insurance are all obvious variants to duration of play, coins in, and hand paid jackpots and are considered design choice to one of ordinary skill in the art.

Applicant respectfully submits that regardless of whether or not taxes paid to a gaming device, an average rate of play and paying insurance are all obvious variants to

duration of play, coins in, and hand paid jackpots, as discussed above with respect to amended independent Claim 1, Acres does not anticipate at a first point in time, determining a current time and a reference time, wherein, at the first point in time, the determined reference time is different than the determined current time, and at a second, different point in time, determining that the second point in time has a predetermined relationship to the determined reference time, and causing at least one display device to display a first play of a bonus game, the first play of the bonus game having a first average expected payout, and at a third different point in time causing the at least one display device to display a second, different play of the bonus game, the second, different play of the bonus game having a second, different average expected payout. Moreover, it would not have been obvious to one of ordinary skill in the art to modify the method of operating a gaming system of Acres to result in such a method without reasonably being construed as improper hindsight reconstruction.

On the other hand, the method of operating a gaming system of Claims 3, 4, 8 and 9 each include, amongst other elements, at a first point in time, causing at least one processor of a wagering game device to execute a plurality of instructions to, determine a current time, and determine a reference time, wherein, at the first point in time, the determined reference time is different than the determined current time, at a second, different point in time, causing the at least one processor to execute the plurality of instructions to: (i) determine that the second point in time has a predetermined relationship to the determined reference time, and (ii) cause at least one display device to display a first play of a bonus game, the first play of the bonus game having a first average expected payout which is based, at least in part, on the second point in time having the predetermined relationship to the determined reference time, and at a third, different point in time, causing the at least one processor to execute the plurality of instructions to: (i) determine a triggering event has occurred, the triggering event occurring independent of the third point in time, and (ii) cause the at least one display device to display a second, different play of the bonus game, the second, different play of the bonus game having a second, different average expected payout.

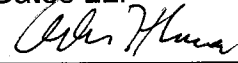
For at least these reasons, Applicant submits that Claims 11, 12 and 14 are each patentably distinguished over Acres and are in condition for allowance.

An earnest endeavor has been made to place this application in condition for allowance and is courteously solicited. If the Examiner has any questions related to this Response, Applicant requests that the Examiner contact the undersigned.

Respectfully submitted,

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Dated: February 4, 2010